Calendar No. 823

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-561

INDIANA DUNES NATIONAL LAKESHORE

SEPTEMBER 20 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 6029]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 6029), to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

H.R. 6029 would authorize the Secretary of the Interior to acquire from the State of Indiana certain lands within the Blue Heron Rookery of the Indiana Dunes National Lakeshore in exchange for the conveyance to the State of certain lands within the Hoosier Prairie Unit of the national lakeshore.

BACKGROUND AND NEED

The Indiana Dunes National Lakeshore was established by the Congress under the Act of November 5, 1966 (Public Law 89-761; 80 Stat. 1309). That Act provides authority to the Secretary of the Interior to exchange lands in furtherance of the purposes for which the national lakeshore was authorized. Section 2(a) of the Act, however, stipulates that the "Properties so exchanged shall be approximately equal in fair market value, as determined by the Secretary * * *" The appraised values of the tracts to be exchanged under H.R. 6029 are not equal, although the exchange is desirable from the standpoint of the National Park Service.

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H.R. 6029 would authorize the Secretary, without regard to the requirements of Section 2(a) relating to unequal values and requirements for monetary payments, to exchange 31 acres of land within the Hoosier Prairie unit of the national lakeshore (presently owned by the National Park Service) for 69 acres of land within the Blue Heron Rookery Unit (owned by the State of Indiana).

The land within the Hoosier Prairie Unit, which the Secretary would convey to the State, has been appraised at $200,000; the land within the Blue Heron Rookery, which the State would convey to the Secretary, has been appraised at $77,000. The Hoosier Prairie land, owned by the United States, is inflated in its market value by commercial and residential activity nearby in the vicinity of Griffith, Indiana while the State's Blue Heron Rookery property is deflated by the lack of pressure for development in a rural area.

Presently the Hoosier Prairie Unit comprises some 330 acres, of which the State of Indiana owns about 300 acres. The area is managed by Indiana as a state nature preserve. The remaining property within the unit 31.26 acres in federal ownership, would upon exchange be used by the state to site parking facilities and a visitor contact station for the preserve. The 31.26 acres constitute probably the least sizable parcel within the Hoosier Prairies Unit. However, it has been previously grazed and tilled, with the result that a number of alien species have invaded to compete with the native prairie species. The land was purchased in 1978 by the National Park Service for $185,000. The Hoosier Prairie is a detached unit approximately 30 miles south of the major portions of Indiana Dunes National Lakeshore. Consistent with the general management plan for Indiana Dunes, the National Park Service believes the transfer of the 31.26 acres will further the administration of the Hoosier Prairie Unit by the State.

The Blue Heron Rookery Unit at Indiana Dunes National Lakeshore contains 388 acres. The National Park Service presently manages this unit as a Great Blue Heron Rookery with ongoing research being conducted by park scientists. As stated in the general management plan, the National Park Service will manage this unit primarily to provide protection to the nesting herons and their habitat with minimal human intrusion. The State holds title to 69.17 acres within the Blue Heron Rookery Unit. The Indiana Department of Corrections transferred title to this land to the Indiana Department of Natural Resources specifically for the purpose of exchange within the National Park Service.

The land within the Hoosier Prairie Unit to be conveyed to the State, as well as the land within the Blue Heron Rookery Unit, would remain within the authorized boundaries of the Indiana Dunes National Lakeshore.

LEGISLATIVE HISTORY

H.R. 6029 was introduced on April 1, 1982. The Subcommittee on Public Lands and National Parks held a hearing on July 2, 1982. The measure was reported to the House on August 10, 1982 and passed the House on August 16, 1982. A similar measure, S. 2186, was introduced in the Senate on March 10 and was the subject of hearings before the Subcommittee on Public Lands and Reserved Water on August 12, 1982. The Committee considered H.R. 6029 in lieu of S. 2186 on

September 15 and ordered H.R. 6029 reported to the Senate without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on September 15, 1982, by unanimous vote of a quorum present recommends that the Senate pass H.R. 6029 as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Domenici	
Mr. Wallop	
Mr. Warner [1]	
Mr. Humphrey [1]	
Mr. Murkowski	
Mr. Nickles	
Mr. East [1]	
Mr. Heinz [1]	
Mr. Jackson	
Mr. Johnston [1]	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Matsunaga [1]	
Mr. Melcher	

[1] Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1(a) authorizes the Secretary of the Interior to accept from the State of Indiana the conveyance of 69.17 acres of land located within the Blue Heron Rookery Unit of the Indiana Dunes National Lakeshore and, in exchange for such conveyance, to convey to the State of Indiana 31.26 acres of land within the Hoosier Prairie Unit of the national lakeshore.

Subsection (b) provides that the Secretary may not carry out the conveyance of lands in t e Hoosier Prairie Unit to the State of Indiana unless the State simultaneously transfers to the Secretary all right, title and interest in the land within the Blue Heron Rookery Unit, as described in subsection (a)(1), and enters into a recordable agreement satisfactory to the Secretary, the terms of which are specified in the legislation.

The Committee finds that the proposed uses of the exchanged land received by the State for a visitor contact center and a parking lot are for "the intrepretation and public appreciation and use of the Hoosier Prairie Unit", a term of subsection (b)(2)(A).

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 16, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6029, a bill to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana, as ordered reported by the Senate Committee on Energy and Natural Resources, September 15, 1982.

The bill authorizes the Secretary of the Interior to accept from the State of Indiana the 69-acre area known as the Blue Heron Rookery in exchange for the conveyance to the State of Indiana of the 31-acre area known as Hoosier Prairie.

This exchange has already been agreed to by the Department of the Interior (DOI) and the State of Indiana, and Indiana is presently occupying the Hoosier Prairie under a temporary agreement. The Blue Heron Rookery abuts land presently held by the DOI, and any additional monitoring or maintenance costs are expected to be negligible. The DOI has no plans, at present, to improve the newly attained area and the bill does not authorize any funds to do so.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 6029, to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of H.R. 6029.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee setting forth Executive agency recommendations relating to S. 2186, the Senate companion bill to H.R. 6029, is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 16, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for this Department's views on S. 2186, a bill "To authorize the Secretary of the Interior to acquire certain lands by exchange at Indiana Dunes National Lakeshore in the State of Indiana, and for other purposes."

We strongly support passage of this legislation with the addition of a clarifying amendment.

S. 2186 would authorize the Secretary of the Interior to exchange a 31.26-acre parcel owned by the United States in the Hoosier Prairie Unit for 69.17 acres owned by the State of Indiana in the Heron Rookery Unit, both units being within the boundary of Indiana Dunes National Lakeshore as set by law.

The Act of November 5, 1966 (P.L. 89–761; 80 Stat. 1309), provides authority to the Secretary to exchange lands in furtherance of the purposes for which the national lakeshore was authorized. Section 2(a) of the Act, however, stipulates that the "Properties so exchanged shall be approximately equal in fair market value, as determined by the Secretary. . . ." The value of the tracts to be exchanged in this instance are not equal monetarily; this is the obstacle which S. 2186 seeks to overcome.

An independent appraisal conducted for the National Park Service in June 1981 valued the 31.26 acres owned by the United States at $200,000. The 69.17-acre parcel currently held by the State of Indiana was valued at $77,000. The Hoosier Prairie land, owned by the United States, is inflated in its value by commercial and residential activity nearby in the vicinity of Griffith, Indiana, while the value of the State's Heron Rookery property is deflated by the lack of pressure for development in a rural area.

Presently, the Hoosier Prairie Unit comprises some 330 acres, of which the State of Indiana owns about 300 acres. The area is managed by Indiana as a State nature preserve. The remaining property within the unit, 31.26 acres in Federal ownership, would be used by the State, upon exchange, for parking facilities and a visitor contact station for the preserve. The 31.26 acres constitute probably the least significant parcel within the Hoosier Prairie Unit. It was previously grazed and tilled, with the result that a number of alien species have invaded to compete with the native prairie species. The land was purchased in 1978 by the National Park Service for $185,000. The Hoosier Prairie is a detached unit approximately 30 miles south of the major portions of Indiana Dunes National Lakeshore. Consistent with the general management plans for Indiana Dunes, we believe that the transfer of the 31.26 acres will further the administration of the Hoosier Prairie Unit by the State.

The Heron Rookery Unit at Indiana Dunes National Lakeshore contains 388 acres. The National Park Service presently manages this unit as a great blue heron rookery with ongoing research conducted by park scientists. As stated in the general management plan, this unit

will be managed primarily to provide protection to the nesting herons and their habitat with minimal human intrusion. The State holds title to 69.17 acres within the Heron Rookery Unit. The Indiana Department of Corrections transferred title to this land to the Indiana Department of Natural Resources specifically for the purpose of exchange with the National Park Service.

In summary, we believe it is in the public interest to waive the principle of equal value exchange in this instance. The relative values of the lands to be exchanged are the products of external economic factors that are not related to the properties' intrinsic worth as natural areas. The enactment of S. 2186 involves no modification of the park's boundary or use of the affected lands. However, their administration and utilization will be improved as a result of consolidation and they will be less costly and less complex to manage, thereby enhancing their value as resource lands. For your consideration, we suggest the addition of a clarifying amendment to make explicit the authority to complete the exchange at unequal value and without requiring any monetary payment. Such an amendment is as follows:

On page 2, after the period in line 2, insert the following sentence: "Such exchange shall be without regard to the values of the properties exchanged, and neither the Secretary nor the State shall be required to pay or accept cash in order to equalize the values of the properties."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD PAUL HODEL,
Under Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill, H.R. 6029, as reported.

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Calendar No. 824

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-562

PLATTE RIVER WATER RESOURCES STUDY, NEBRASKA

SEPTEMBER 20 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 6188]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 6188) to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE

H.R. 6188 authorizes the Secretary of the Interior to participate with the State of Nebreska in a comprehensive study of the water resource potential and related demands of the Platte River Basin in Nebraska. The Act also authorizes the appropriation of $350,000 for the study, of which $175,000 would be made available to the State on a grant basis to be matched by non-Federal contributions or in kind services.

BACKGROUND AND NEED

The Platte River Basin encompasses almost two-thirds of the area of the State of Nebraska. Flowing from West to East across the entire State, the Platte River is dependent upon for irrigation, groundwater stabilization and recharge, enhancement of water quality, small community and rural domestic water supplies, management of fish and wildlife habitat, outdoor recreation, hydroelectric development, and municipal and industrial water supplies. The Platte is the most significant surface water resource in the State, and as such is subject to both ever-increasing and conflicting demands.

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In an effort to alleviate potential conflicts, the State of Nebraska's Natural Resources Commission has established the "Platte River Forum for the Future" to provide an opportunity for competing interests to reach agreement on future allocation of the waters of the Platte River. First in priority in this decision process is the preparation of a data base of information on the available physical resources and on existing and potential demands. The Nebraska Resources Commission has undertaken a broad-based review and study of Platte River water use and development and has solicited the support of the Department of the Interior's Bureau of Reclamation and other appropriate Federal agencies. Passage of H.R. 6188 would authorize this participation and provide for needed funding at both the Federal and State level.

Of particular note are the type of study authorized by the Act and the requirement of a monetary or in kind service contribution on the part of the State of Nebraska.

Customarily, study authority for the Bureau of Reclamation is legislated pursuant to Section 8 of the Federal Water Project Recreation Act (Public Law 89–72, 79 Stat. 213) which provides:

> SEC. 8. Effective on and after July 1, 1966, neither the Secretary of the Interor nor any bureau nor any person acting under his authority shall engage in the preparation of any feasibility report under reclamation law with respect to any water resource project unless the preparation of such feasibility report has been specifically authorized by law, any other provisions of law to the contrary notwithstanding.

Public Law 89–72 provides for authorization of a "feasibility" grade study, which is a document submitted to the Congress for consideration in conjunction with legislation to authorize a specific project. Pursuant to the Act of October 29, 1971 (Public Law 92–149) the costs of feasibility-level investigations are not reimbursable, although cost-sharing by non-Federal entities is permissible and even encouraged under current law. However, the Committee notes that H.R. 6188 does not authorize a feasibility grade study but rather provides for the compilation of a comprehensive data base to be used to address and resolve water resource issues within the Basin. Inasmuch as the study authorized by H.R. 6188 will provide a high level of assistance to the State in resolving State-related water issues, the requirement of a non-Federal contribution is appropriate. It should be noted that the resolution of conflicts concerning use of Platte River water is not just a State matter, but, since the Platte is an interstate stream, of vital national interest. Hence the expenditure of Federal funds is both reasonable and justifiable.

LEGISLATIVE HISTORY

H.R. 6188 was introduced on April 28, 1982 by Congressman Bereuter and was referred to the House Committee on Interior and Insular Affairs, which favorably reported the measure by voice vote on July 28, 1982 as an amendment in the nature of a substitute (H. Rept. 97–713). The bill as reported passed the full House with amendments on August 16, 1982 and was referred to the Senate Energy and Natural Resources Committee on August 17, 1982. The Committee does not customarily hold hearings on legislation to authorize studies

by the Bureau of Reclamation. The measure was considered in open business session and ordered reported without amendment on September 15, 1982 by a vote of 17 yeas to 0 nays.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 15, 1982, by unanimous vote of a quorum present, recommends that the Senate pass H.R. 6188 as reported.

The rollcall vote on reporting the measure was 17 yeas and 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Domenici	
Mr. Wallop	
Mr. Warner [1]	
Mr. Humphrey [1]	
Mr. Murkowski	
Mr. Nickles	
Mr. East [1]	
Mr. Heinz [1]	
Mr. Jackson	
Mr. Johnston [1]	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Matsunaga [1]	
Mr. Melcher	

[1] Voted by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 outlines the purposes of the study.

Section 2 designates several Federal agencies to participate in the study and establishes a deadline for completion of the study.

Section 3 authorizes funds to be appropriated, establishes a grant for the Nebraska Natural Resources Commission, and requires non-Federal cost-sharing.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 16, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6188, a bill to authorize the Secretary of the Interior to par-

ticipate with the state of Nebraska in studies of Platte River water resource use and development, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources, September 15, 1982.

The bill authorizes the Secretary of the Interior to engage in a special study to assist the State of Nebraska in establishing water resource conservation and development priorities. Other federal agencies are to be invited to participate in the study, including the U.S. Geological Survey, the U.S. Fish and Wildlife Service, and the Environmental Protection Agency. The bill authorizes appropriations of $350,000, one-half of which is to be made available as a grant to the Nebraska Natural Resources Commission. Assuming appropriation of the authorized amount for fiscal year 1983, estimated outlays by the federal government would be approximately $225,000 in fiscal year 1983, $90,000 in fiscal year 1984 and $35,000 in fiscal year 1985.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred on the passage of H.R. 6188.

It is the Committee's expressed opinion that the Act is not a regulatory measure in the sense of imposing Government established standards or significant responsibilities on private individuals or businesses and that little, if any, additional paperwork would result from enactment of H.R. 6188 other than that which would normally be associated with such a Federal study program.

EXECUTIVE COMMUNICATIONS

On September 8, 1972, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on H.R. 6188. These reports had not been received at the time the report on H.R. 6188 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. It should be noted that while testifying before the Water and Power Subcommittee of the House Committee on Interior and Insular Affairs on June 8, 1982, the Commissioner of the Bureau of Reclamation testified in support of enactment of H.R. 6188.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill, H.R. 6188, as reported.

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